

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RODRICK E. DEBOSE,

Plaintiff,

v.

Case No. 8:21-cv-417-TPB-SPF

SPECTRUM,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION IN PART

This matter is before the Court on the report of Sean P. Flynn, United States Magistrate Judge, entered on March 8, 2021. (Doc. 8). Judge Flynn recommends that Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) be denied without prejudice, that Plaintiff's complaint be dismissed without prejudice, and that Plaintiff be given leave to file an amended complaint and a renewed request to proceed *in forma pauperis*. Plaintiff has not filed an objection to the report and recommendation, and the time to object has expired. After the filing of the report and recommendation, Plaintiff filed a second motion to proceed *in forma pauperis* and an amended complaint.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). A district court must "make a de novo determination of those portions of the

[report and recommendation] to which an objection is made.” 28 U.S.C. § 636(b)(1)(C). When no objection is filed, a court reviews the report and recommendation for clear error. *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006); *Nettles v. Wainwright*, 677 F.2d 404, 409 (5th Cir. 1982).

After careful consideration of the record, including Judge Flynn’s report and recommendation, the Court adopts the report and recommendation in part. The Court agrees with Judge Flynn’s detailed and well-reasoned findings and conclusions with respect to the sufficiency of the complaint and denial of the *in forma pauperis* motion. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 2) is therefore denied without prejudice. After the filing of the report and recommendation, Plaintiff filed an amended complaint. Accordingly, Judge Flynn’s recommendation that the complaint be dismissed without prejudice is moot.

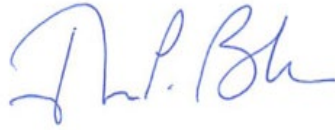
It is therefore

ORDERED, ADJUDGED, and DECREED:

1. The report and recommendation (Doc. 8) is **ADOPTED IN PART** and **TERMINATED IN PART AS MOOT**.
2. The recommendations that the complaint be dismissed without prejudice and that leave to file an amended complaint be granted are **TERMINATED AS MOOT**.
3. In all other respects, the report and recommendation is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.

4. Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**
WITHOUT PREJUDICE.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 24th day of
March, 2021.



TOM BARBER
UNITED STATES DISTRICT JUDGE